

LAW OFFICES

SCALLEY & READING

A PROFESSIONAL CORPORATION

SUITE 200

261 EAST 300 SOUTH

SALT LAKE CITY, UTAH 84111

FORD G. SCALLEY
J. BRUCE READING
STEVEN K. WALKENHORST
MICHAEL W. SPENCE
MARLON L. BATES
JOHN EDWARD HANSEN*
SCOTT N. RASMUSSEN
JOHN E. SWALLOW**
STEVEN B. SMITH
WESLEY D. HUTCHINS
MICHAEL D. CREER
TODD D. WEILER
JEANNE T. CAMPBELL

*ALSO ADMITTED IN WYOMING
**ALSO ADMITTED IN COLORADO

TELEPHONE
AREA CODE 801
531-7870

FACSIMILE
AREA CODE 801
531-7968

E-MAIL
LAW@SCALLEYREADING.COM

March 19, 1997

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

MAR 24 2 30 PM '97

F. Andrew Turley, Esq.
Supervising Attorney
Central Enforcement Docket
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: MUR 4621

Dear Mr. Turley:

As discussed in our telephone conversation of Monday, March 17, 1997, please consider this as the response of Phillips, Twede & Spencer, Inc. ("PTS") with respect to the captioned matter. In connection with such response, enclosed please find the following documents:

1. A fully completed and signed "Statement of Designation of Counsel" naming Scott N. Rasmussen and Todd D. Weiler, attorneys with the law firm of Scalley & Reading, as counsel for PTS in this matter.
2. The Affidavit of Mr. Ted Phillips ("Phillips"). Among other things, the Affidavit: (i) describes the factual background and context of the fee dispute that relates to this matter, (ii) declares that PTS never made, nor did it ever intend to make, any 'contributions' or 'loans' to either Merrill Cook or the Merrill Cook for Congress Committee (collectively, "Cook"), and (iii) indicates that the fee dispute between PTS and Cook has been resolved.
3. A Memorandum of Understanding and Agreement, signed and dated as of January 30, 1997, setting forth the terms and conditions of the resolution of the fee dispute between PTS and Cook.

Additionally, and as indicated in our telephone conversation, I note that I represented PTS in connection with its dispute with Cook. Accordingly, I was involved in a number of discussions, planning sessions, and negotiations relating to this matter. I also drafted a proposed complaint that would have been filed had this matter not been settled. Based upon both: (i) my knowledge of the facts and circumstances relating to the disagreement between PTS and Cook, and (ii) my involvement in

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many similar conflicts during the course of my practice, it was clear that this matter was a typical fee dispute between two parties whose business relationship had deteriorated. On its side, PTS claimed that it was owed \$12,676.62 for the advertising services which it rendered to Cook. (Note: the COMPLAINT OF UTAH STATE DEMOCRATIC COMMITTEE which was provided to us by the Federal Election Commission included, as an attachment, an article from the Deseret News which quoted Phillips as saying that PTS was owed \$16,000; based upon a payment received from Cook subsequent to the time that Phillips made his comments, however, the actual amount which PTS ultimately claimed as being owing was reduced to \$12,676.62).

On his side, Cook asserted a number of claims against PTS including, but not limited to, allegations that, to the detriment of Cook, a key PTS' shareholder/employee moved to another locale during the middle of the campaign; that Cook had been overcharged for services; and that services from PTS were not timely rendered.

The settlement amount of \$8,994.09 was reached only after protracted and hard-fought negotiations between the parties. Furthermore, although neither PTS nor Cook admitted that the other's position was correct, the settlement does reflect a recognition, by each party, that the other party had raised colorable claims in this matter. As a consequence, PTS at no time intended to make a 'contribution' or 'loan' to Cook of the amount of the difference between the \$12,676.62 which PTS claimed was owed and the \$8,994.09 which was finally paid. Instead, such difference represented a compromise amount that took into consideration the various matters raised by each of PTS and Cook during their negotiations with one another.

In summary, we believe that the enclosed documents, together with the foregoing information, demonstrate that this matter was a fee dispute which, like so many commercial cases in which I have been involved during the course of my practice, was settled when each party took a hard look at its claims and compromised upon an amount that it considered to be reasonable. Since PTS never intended to make a contribution or loan of any kind to Cook, we believe that no action should be taken against PTS in this matter.

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F. Andrew Turley, Esq.
Supervising Attorney
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Thank you for your consideration in this matter, and please do not hesitate to contact either of the undersigned with any questions you might have.

Sincerely,

SCALLEY & READING



Scott N. Rasmussen
Todd D. Weiler

SC

Enclosures

cc: Ted Phillips, Phillips, Twede & Spencer, Inc.

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COUNSEL

MAR 24 2 31 PM '97

Scott N. Rasmussen [5226]
Todd D. Weiler [7671]
SCALLEY & READING
Attorneys for Respondent
Phillips, Twede & Spencer, Inc.
261 East 300 South, Suite 200
Salt Lake City, Utah 84111
Telephone: (801) 531-7870
Facsimile: (801) 531-7968

Utah State Democratic
Committee,

Complainant,

vs.

Merrill Cook, Merrill Cook for
Congress Committee,

Respondent(s).

AFFIDAVIT OF TED R.
PHILLIPS

MUR 4621

STATE OF UTAH)
: SS
COUNTY OF SALT LAKE)

I, Ted R. Phillips, having been first duly sworn, hereby
state as follows:

1. I am the Vice President of Phillips, Twede &
Spencer, Inc. ("PTS"), a Utah corporation with its principal place
of business in Salt Lake County, Utah. At all times relevant
hereto PTS was in the business of performing advertising services.

2. In March of 1996, Merrill Cook and/or the Merrill
Cook for Congress Committee (collectively, "Cook") entered into an
oral contract (the "Contract") with PTS, whereby PTS was to provide
certain advertising and related services on an 'as requested' basis

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in connection with Cook's campaign for the United States House of Representatives.

3. In connection with the Contract, PTS rendered services for and on behalf of Cook which included, without limitation, conceiving, creating, producing, and placing both print and electronic advertising media.

4. On or about December 15, 1996, I informed Cook that, after taking into consideration all of the payments Cook had previously made, Cook owed PTS an additional \$16,689.18 for services rendered.

5. On December 18, 1996, Cook sent PTS a letter, together with a check in the amount of \$4,012.56, proposing that such amount be a final settlement of Cook's account with PTS. In such December 18 letter, Cook alleged, among other things, that, to the detriment of Cook, a key PTS' shareholder/employee had moved to another locale during the middle of the campaign, that Cook had been overcharged for services, and that services from PTS had not been timely rendered.

6. PTS did not -- and does not -- admit to the validity of the claims raised by Cook, and did not accept the proposal that Cook's entire account be settled for the amount of \$4,012.56. PTS did, however, cash the check it received, and applied such amount to the total arrearage on Cook's account.

7. After taking into consideration the December 18, 1996 payment made by Cook, PTS believed that it was owed a balance of \$12,676.62.

8. On or about January 30, 1997, and after several meetings, significant telephonic and other negotiations, and PTS causing a proposed complaint to be drafted, PTS and Cook reached a settlement (the "Settlement") that Cook would pay, to PTS, the amount of \$8,994.09 as payment in full for all services rendered by PTS. Such Settlement was memorialized in a certain Memorandum of Understanding and Agreement, a copy of which is attached hereto as Exhibit "A" and is incorporated herein by this reference.

9. Although PTS did not -- and does not -- admit to the validity of the claims raised by Cook, PTS does believe that such claims were colorable in nature. Accordingly, in entering into the Settlement and agreeing to the amount it received in connection therewith, PTS considered the colorable nature of the claims raised by Cook.

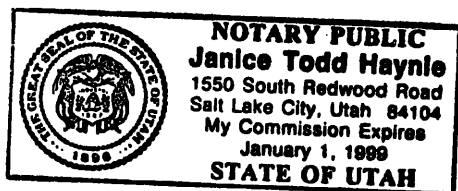
10. As a consequence of the foregoing, PTS at no time intended to make a 'contribution' or a 'loan' to Cook of the amount of the difference between the \$12,676.62 which PTS claimed was owed and the \$8,994.09 which was finally paid. Instead, such difference represented a negotiated compromise that took into consideration the various matters and claims raised by each of PTS and Cook.

11. As a consequence of the Settlement, Cook has now made payment in full and PTS considers the matter resolved.

FURTHER AFFIANT SAITH NOT.


Ted R. Phillips

SUBSCRIBED AND SWORN to before me this 19th day of March, 1997.





Notary Public

EXHIBIT A

21-04-405-2012

MEMORANDUM OF UNDERSTANDING AND AGREEMENT

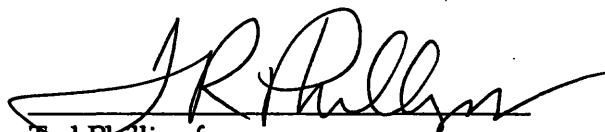
This Memorandum of Understanding and Agreement is entered in to between Phillips Twede Spencer Advertising and or Evan Twede ("PTS" hereinafter) and Merrill Cook and the Cook for Congress Campaign ("Cook" jointly hereinafter) to settle and resolve the billing dispute between them.

PTS hereby accepts the sum of \$8,994.09 (eight thousand nine hundred ninety-four dollars and nine cents) and acknowledges receipt of that amount as payment in full for all services performed by PTS and Evan Twede and any vendors who subcontracted with PTS and Evan Twede for Cook in 1996. It is agreed and understood that no other amounts are owed by Cook to PTS or its vendors for any services of any nature related to the Cook 1996 election campaign.

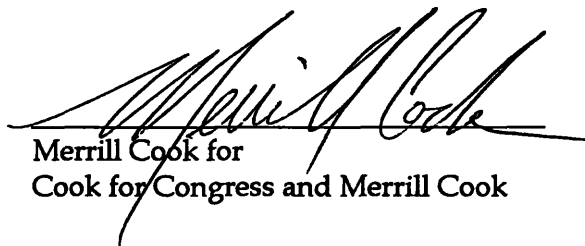
Both PTS and Cook hereby agree to waive and release any and all claims against the other, of whatever nature, arising from the relationship between the parties to this date except for a breach of this Memorandum of Understanding and Agreement.

In the event either party shall breach the terms of this Memorandum of Understanding and Agreement, the breaching party shall be liable to the enforcing party for costs of enforcement including attorneys' fees.

DATED this 30th day of January, 1997.



Ted Phillips for
Phillips Twede Spencer Advertising



Merrill Cook for
Cook for Congress and Merrill Cook

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